

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK

235 Pine Street

San Francisco, CA 94104

AUG 2

E-filing

Mailing Address:

P.O. Box 7341

CLERK, U.S. BKCY. APP. PANEL

San Francisco, CA 94120-7341

FBN DIST

UNITED STATES BANKRUPTCY COURT
3 SAN FRANCISCO, CARECEIVED
Harold S. Maranus, Clerk
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUITTRANSMITTAL FORM

C 08 4091 AUG 04 2008

FILED
DOCKETED 8/5/08 FB
DATE INITIAL

TO: Bankruptcy Appellate Panel of the Ninth Circuit, 125 S. Grand Avenue, Pasadena, CA, 91105

BAP#NC-08-195

CASE NAME:

BANKRUPTCY NO.:

ADVERSARY PROCEEDING: Miles v. Makishima et al

ADVERSARY NO.: 08-3037

BANKRUPTCY JUDGE: Thomas E. Carlson

DATE NOTICE OF APPEAL FILED: 7/29/08

DATE OF ENTRY OF ISSUE: 7/16/08

DATE BANKRUPTCY FILED:

NOTICE OF OBJECTION FILED: 7/23/08

DATE OF TRANSMITTAL: 7/30/08

PLEASE STAMP YOUR CASE NUMBER on a copy of this transmittal form and return the copy to the
bankruptcy court.

ANNA CHO-WONG

Deputy Clerk Anna Cho-Wong

FILED

AUG 27 2008

M(1)
424
JSW

**U.S. Bankruptcy Appellate Panel
of the Ninth Circuit**

E-filing

125 South Grand Avenue, Pasadena, California 91105

Appeals from Central California (626) 229-7220

Appeals from all other Districts (626) 229-7225

RICHARD
CLERK, U.S.D.
N.D. CALIFORNIA

WEEKING

08-4091

JSW

C 08 4091

**In Re: ROYCE LEE MAKISHIMA; TERRA
ANN MAKISHIMA****BAP No.: NC-08-1195****Bk. Ct. No.: 07-27982****ADV. NO.: 08-03037**

JSW

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to District Court San Francisco, CA.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Harold S. Marenus, BAP Clerk

By: Freddie Brown, Deputy Clerk

Date: August 20, 2008

Please acknowledge receipt of
the case file listed above.

Dated: _____

Signed: _____
District Court Deputy

Assigned District Court No. _____

cc: Bankruptcy Court
All Parties

U.S. Bankruptcy Appellate Panel ~~FILED~~ **FILED**
of the Ninth Circuit

E-filing

125 South Grand Avenue, Pasadena, California 91105
 Appeals from Central California (626) 229-7220
 Appeals from all other Districts (626) 229-7225

3 UNITED STATES BANKRUPTCY COURT
 SAN FRANCISCO, CA

To: Clerk, Bankruptcy Court

C 08

4091

RECEIVED
 Harold S. Marenus, Clerk
 U.S. BKCY. APP. PANEL
 OF THE NINTH CIRCUIT

JSW

Debtor(s): Royce Lee Makishima & Terra Ann Makishima

BAP No.: NC-08-1195

Bk. Ct. No.: 07-27982

ADV. NO.: 08-03037

FILED

DOCKETED 8/14/08 **FB**
 DATE INITIAL

The Bankruptcy Appellate Panel has received and docketed the notice of appeal referenced in the attached transmittal. The BAP case number is indicated above for your information.

If completion of the record has been delayed, please advise us as to the cause of the delay by completing the following checklist and sending a copy of this letter back to us:

**IF THE RECORD ON APPEAL IS COMPLETE, PLEASE SEND THE CERTIFICATE
 OF READINESS**

Harold S. Marenus, BAP Clerk

By: Freddie Brown, Deputy Clerk

Date: August 5, 2008

**A) REASONS WHY THE RECORD HAS NOT BEEN COMPLETED. THE FOLLOWING ITEMS HAVE NOT
 BEEN FILED:**

- No Filing Fees paid
- No Designation of Record
- No Statement of Issues
- No Notice Regarding the Transcript
- No Reporter's Transcript(s)

Reporter name: _____

phone: _____

Judge: _____

Transcript date(s): _____

- No Transcript Fees paid
- Extension of Time Granted to Reporter:
 New deadline: _____
- Other: _____

B) DEPUTY CLERK PROCESSING THIS APPEAL

1. Name: Freddie Brown
2. Phone: 268-2388
3. Date: 8/12/08

*69
AP*

FILED
JUL 30 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

C 08

4091

| | |
|---|-------------------------|
| In re | |
| Grace Miles | Adversary no 08-3037 TC |
| Plaintiff(s) | |
| v. | |
| Royce Makishima, A.G. Edwards & Sons, Inc. and Terra Ann Makishima | |
| Defendant(s)/ | |

**NOTICE OF REFERRAL OF APPEAL TO BANKRUPTCY APPELLATE PANEL
TO ALL PARTIES:**

YOU AND EACH OF YOU are hereby notified that the enclosed notice of appeal has been filed by **Grace Miles**, appellant with the Clerk of the Bankruptcy Court. By virtue of the orders of the Judicial Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP).

Dated: July 30, 2008

Gloria L. Franklin, Clerk
United States Bankruptcy Court

ANNA CHO-WONG

By: _____
Deputy Clerk, Anna Cho-Wong

FILED

JUL 29 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

1 GRACE MILES
2 21 Willow Rd.-22
3 Menlo Park, CA 94025
4 650.329.8785
5
6

7
8
9 UNITED STATES BANKRUPTCY COURT
10 Northern District of California
11
12

13 In re
14 ROYCE LEE MAKISHIMA and
15 TERRA ANN MAKISHIMA,
16 Debtors,
17

18 GRACE MILES,
19 Plaintiff,
20 v.
21
22 ROYCE LEE MAKISHIMA, et al.,
23 Defendant(s).
24

Case No. 08-03037

NOTICE OF APPEAL

25 Plaintiff Grace Miles ("Miles") files this "notice of appeal", not certain if she
26 needs to, considering her other related filings, especially her "motion for leave to file
27 a motion for reconsideration", but does so to protect herself/her case. This notice of
28 appeal is for this Court's "order (1) granting defendants' motion to remand and (2)
vacating hearings" ("the Order"), Miles apologizes If she did not need to do this, she
does not know If this Is a final or Interlocutory order, or If It Is premature, and
realizes that If she succeeds on her motion for leave to file a motion for
reconsideration and hopeful subsequent granting of this and a different outcome, this
was unnecessary.

Miles, most involuntarily Pro Se, does not fully understand the bankruptcy laws

1 and rules, despite diligent efforts to do so, and requests that this filing be construed
2 with leniency. "Courts do and should show a leniency to Pro Se litigants not enjoyed
3 by those with the benefit of a legal education." [GJR Investments, Inc. v. County of
4 Escambia, Fla (11th Cir. 1998) 132 F3d 1359, 1369]. This is why Miles requested a
5 stay to secure counsel. Miles files this notice of appeal, she believes, under 28 USC
6 158(a) -(d) from the Order signed and filed by the Honorable Thomas E. Carlson on
7 July 16, 2008, and entered on July 17, 2008. Miles request that her appeal, If
8 necessary be a direct appeal to the Ninth Circuit. The names, addresses, and phone
9 numbers of the currently named parties and their attorneys to the Order appealed from
10 are as follows: Royce Lee Makishima, Terra Ann Makishima, A. G. Edwards & Sons,
11 Inc., and Does 1-200, all in care of their attorney, Ms. Lindsey Schroeder, Morgan
12 Lewis, 3000 El Camino Real, Suite 700, Palo Alto, CA 94306, 650.843.4000.
13
14

15
16 Respectfully submitted,
17
18

19 July 28, 2008

20 
Grace Miles
Pro Se

21
22
23
24
25
26
27
28



Entered on Docket

July 17, 2008

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

Signed and Filed: July 16, 2008

THOMAS E. CARLSON
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

Northern District of California

I certify that this is a true, correct and full copy
of the original document on file in my custody.Dated 7-16-08by Debra Che-Wong

Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

Case No. 07-27982 A7

ROYCE LEE MAKISHIMA and
TERRA ANN MAKISHIMA,

Chapter 7

(Pending in the United
States Bankruptcy Court for
the Eastern District of
California)

Debtors.

GRACE MILES,

Plaintiff,

vs.

Adv. Proc. No. 08-3037 TC

ROYCE LEE MAKISHIMA; A.G. EDWARDS &
SONS, INC.; TERRA ANN MAKISHIMA,

Defendants.

ORDER (1) GRANTING DEFENDANTS' MOTION TO REMAND
AND (2) VACATING HEARINGSUpon due consideration, and for the reasons stated in the
accompanying memorandum, the court hereby orders as follows:

(1) Defendants' motion to remand is granted.

(2) The court determines that oral argument would not be
helpful and therefore vacates the hearing set for July 18, 2008 on
the motion to remand.

1 (3) Because this court remands the entire action to state
2 court and will not exercise jurisdiction over the action hereafter,
3 (a) the status conference set for July 24, 2008 is vacated; and
4 (b) the hearing set for August 29, 2008 on Plaintiff's motion to
5 disqualify Morgan Lewis is vacated.

6 (4) The parties to this proceeding may not file a motion for
7 reconsideration without first obtaining leave of the above-signed.
8 Bankr. Local Rule 1001-2(b); Local Civ. Rule 7-9.

****END OF ORDER****

Court Service List

2 | Grace Miles
21 Willow Road, Suite 22
3 | Menlo Park, CA 94025

4 Lindsey K. Schroeder, Esq.
Morgan, Lewis and Bockius
5 3000 El Camino Real, Suite 700
Palo Alto, CA 94306

卷之三

RECEIVED
Herald S. Marenco, Clerk
U. S. COURT OF APPEALS
OF THE NINTH CIRCUIT

FILED

JUL 29 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

1 GRACE MILES

AUG 04 2008

2 21 Willow Rd.-22

3 Menlo Park, CA 94025

FILED

4 650.329.8785, fax same, pls call 1s ~~DOCKETED 8/5/08~~ DATE ~~FB~~
IN PRO PER

E-filing

5 UNITED STATES BANKRUPTCY COURT
6 Northern District of California

7 C

08

4091

JSW

8 In re

9 Case No. 08-03037

10 ROYCE LEE MAKISHIMA and
11 TERRA ANN MAKISHIMA,
12 Debtors,

13 MOTION FOR LEAVE TO
14 FILE A MOTION FOR
15 RECONSIDERATION +
16 PROPOSED ORDER

17 GRACE MILES,
18 Plaintiff,
19 v.

20 ROYCE LEE MAKISHIMA, et al.,
21 Defendant(s).

22 Hon. Thomas E. Carlson

23 Plaintiff Grace Miles ("Miles"), files this motion for leave to file a motion for
24 reconsideration since it was suggested/permitted in this Court's "order (1) granting
25 defendants' motion to remand and (2) vacating hearings" ("the Order"), which was
26 signed and filed on July 16, 2008, and to protect herself/her case. However, Miles
27 position is still first and foremost that this Court did not have jurisdiction at the time the
28 order was issued due to her July 8, 2008, filing of "motion to withdraw reference".
Miles filed on July 23, 2008 an "objection to order and request to vacate/reverse"
regarding this same order, and still respectfully requests this, but files this motion for
leave in case her "objection to order and request to vacate/reverse" is denied.

Miles also respectfully requests, in the interests of justice, that this motion for leave

1 be construed with leniency as Miles is most involuntarily Pro Se, and does not fully
2 understand these bankruptcy laws, including consent and non-consent, and that her action
3 she now sees may and can be both, core and non-core. This is why Miles requested a
4 stay to secure counsel, especially since she requested a jury trial. Miles case is of the
5 greatest public importance, having to do with Human Rights abuses and Gender
6 Violence, and she perseveres, not only for herself, but for all others in a similar situation
7 who are unable to. "Courts do and should show a leniency to Pro Se litigants not
8 enjoyed by those with the benefit of a legal education." [GJR Investments, Inc. v.
9 County of Escambia, Fla. (11th Cir. 1998) 132 F3d 1359, 1369].

10 Miles requests leave to file a motion for reconsideration and her request is based on
11 this motion and any other information Miles has presented/filed in this Court..

12 Miles was not permitted to present all the facts and/or law before the Order was
13 issued, either via a complete written opposition or via oral argument, since this Court
14 vacated the hearing on the motion for remand. There is a big difference in what was
15 preliminarily presented by Miles and what could and should have been presented, had she
16 been permitted to do so. Miles was not able to because her ex-parte and emergency
17 efforts to obtain a stay, a continuance, a restraining/injunction order were not granted.
18 Miles filed on July 3, 2008, an ex-parte motion to stay pending appeals, etc. In this
19 motion, Miles requested immediate relief for a stay pending her appeals, giving her
20 appeals case numbers and jurisdiction, and until she secured an attorney (Miles filed on
21 May 29, 2008, a Request for Stay of Proceedings, to secure counsel). Miles showed
22 good cause, especially due to her ill health and immediate irreparable injury without a
23 stay. Then, Miles, not wanting to be penalized for not filing on a due date, and not
24
25
26
27
28

1 certain if she should or needed to due to her filed requests for immediate stay relief, and
2 for disqualification of attorney Morgan Lewis, filed an incomplete, preliminary
3 opposition to defendants' motion to remand, on July 8, 2008, stating that she reserved the
4 right to correct and/or amend the filing.

5 On July 9, 2008, Judge Montali, in Judge Carlson's absence, denied Miles request
6 for a stay, citing that there was no proof of service on defendants and that there was
7 nothing to stay, and that if Miles wished to continue the July 18, 2008, hearing on motion
8 to remand, that she could file a motion for continuance. Miles then filed an "emergency
9 motion for stay pending appeals, etc., affidavit, & proposed order, on July 10 2008,
10 stating that she had relied on FRCivP. 5(a)(D), in her motion for stay, which does not
11 require service of an ex-parte written motion, and that there was also a status conference
12 on calendar for July 24, 2008, and also a request to disqualify attorney Morgan Lewis.
13 Also, taking Judge Montali's instruction, Miles filed a "motion for continuance, request
14 for shortening of time & declaration & proposed order on July 11, 2008. Miles also filed
15 a "corrected emergency motion for stay pending appeals, etc., affidavit, & proposed order
16 on July 11, 2008. Finally, on July 16, 2008, Miles filed an "emergency
17 request/motion/complaint for restraining and/or injunction order, declaration, proposed
18 order. Also, this Court vacated the hearing on motion to remand, preventing Miles from
19 presenting oral argument.

20 Because of the above and the fact that Miles showed good cause and urgency to
21 prevent irreparable injury, Miles was unable to present the most important facts and law
22 before the Order was entered, especially since she is better able to present via oral
23 argument. Furthermore, since Miles is most involuntarily Pro Se, she did not know all
24
25
26
27
28

1 the facts and law, despite her diligent efforts to obtain them, to present to the Court prior
2 to the Order. Despite Miles diligent efforts to learn the laws, etc. of this Court, it takes
3 her a while to understand and find. There also exists the emergency of new material facts
4 and law which Miles is able to present.

5 For all the reasons stated, and in any other filings of Miles, Miles respectfully
6 requests that this Honorable Thomas E. Carlson, grant Miles leave to file a motion for
7 reconsideration so that she may present her case. Miles requests that she have twenty
8 days after decision of her appeal, currently in U.S. District Court, Sacramento Division,
9 case no. 2:08-cv-01062, (**Exhibit A** is recent Order relating to this appeal) to file this
10 motion for reconsideration. This appeal is from the related adversary proceeding in the
11 Eastern Division of U.S. Bankruptcy Court, which Miles notified this Court of in her
12 "notice of related adversary proceeding" filed July 3, 2008. Miles appreciates the
13 Court's patience.

14
15
16
17 Respectfully Submitted,

18
19 
20 Grace Miles
21 Pro Se

22 I declare under penalty of perjury that the foregoing facts are true and correct. Executed
23 on July 28, 2008, at Menlo Park, California.

24
25 
26 Grace Miles
27
28

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

| | |
|---|-----------------------|
| In re | Case No. 07-27982-A-7 |
| ROYCE LEE MAKISHIMA and TERRA ANN MAKISHIMA, |) |
| Debtors. |) |
| <hr/> | |
| GRACE MILES, |) |
| Plaintiff, |) |
| vs. |) |
| ROYCE LEE MAKISHIMA and TERRA ANN MAKISHIMA, |) |
| Defendants. |) |

ORDER

21 For the reasons stated in the accompanying Memorandum, the
22 ex parte motion of plaintiff Grace Miles for a temporary
23 restraining order is ORDERED DENIED. However, the parties are
24 ORDERED to appear on August 11, 2008 at 9:00 a.m. in courtroom
25 28, U.S. Courthouse, 501 I Street, Sacramento, California to show
26 cause why the court should not issue a preliminary injunction.
27 Opposition to the issuance of a preliminary injunction, if any,
28 shall be filed and served no later than August 5.

1 RICHARD W. ESTERKIN (70769)
resterkin@morganlewis.com
2 ASA S. HAMI (210728)
ahami@morganlewis.com
3 MORGAN, LEWIS & BOCKIUS LLP
300 South Grand Avenue
4 Twenty-Second Floor
Los Angeles, CA 90071-3132
5 Tel: 213-612-2500
Fax: 213-612-2501

DARYL S. LANDY (136288)
dlandy@morganlewis.com
LINDSEY K. SCHROEDER (245425)
lschroeder@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306-2212
Tel: 650-843-4000
Fax: 650-843-4001

12 Attorneys for Appellees
Royce Lee Makishima and Terra Ann Makishima

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

16 In re:
17 ROYCE LEE MAKISHIMA, TERRA
18 ANN MAKISHIMA,
19 Debtor(s).

District Case No. 2:08-CV-01062-JAM

Bankruptcy Case No. 07-27982-A-7

**ORDER DEFERRING BRIEFING ON
APPEAL**

Date: [None Set]

Time: [None Set]

Place: Department 6

Judge: Hon. John A. Mendez

21 GRACE MILES

Appellant.

24 ROYCE LEE MAKISHIMA, TERRA
AND MAKISHIMA

Appellee(s)

[PROPOSED] ORDER DEFERRING
BRIEFING ON APPEAL
(CASE NO.: 2:08-CV-01062-JAM)

1 This Court, having considered the initial *ex parte* motion of appellees Royce Lee
 2 Makishima and Terra Ann Makishima (together, "Appellees") for an Order deferring the briefing
 3 on the above-captioned appeal (the "Motion"), and good cause appearing therefor, it is hereby
 4 **ORDERED** as follows:

5 1. The Motion is granted.

6 2. The briefing schedule issued by the Court on July 8, 2008 (Dkt. No. 15) is
 7 modified as follows:

8 (a) Appellant Grace Miles ("Appellant") shall file and serve her opening
 9 brief and excerpts of record within 15 days after the date of this Court enters its Order on
 10 Appellees' "Motion to Dismiss Appeal for Lack of Jurisdiction" (the "Motion to Dismiss"),
 11 whenever that may be, if that Order denies the Motion to Dismiss;

12 (b) Appellees shall file and serve their opening brief within 15 days after
 13 service of Appellant's opening brief; and

14 (c) Appellant may file and serve a reply brief within 10 days after Appellees'
 15 service of their opening brief.

16 3. Except as specified in paragraph 2 above, the briefing schedule issued by the
 17 Court on July 8, 2008 (Dkt. No. 15) shall remain in full force and effect.

18
 19
 20 DATED: July 18, 2008

21 /s/ John A. Mendez
 22 HON. JOHN A. MENDEZ
 23 UNITED STATES DISTRICT JUDGE

RECEIVED
Harold S. Manning, Clerk
U. S. BANKR. APP. PANEL
OF THE NINTH CIRCUIT

FILED

JUL 29 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA 94158

1 GRACE MILES
2 21 Willow Rd.-22
3 Menlo Park, CA 94025
4 650.329.8785

AUG 04 2008

FILED 8/4/08

DOCKETED 8/5/08

DATE

FO

INITIAL

E-filing

5 UNITED STATES BANKRUPTCY COURT
6 Northern District of California

7 C 08

4091

8 In re
9 ROYCE LEE MAKISHIMA and
10 TERRA ANN MAKISHIMA,
11 Debtors,

Case No. 08-03037

JSW

12 GRACE MILES,
13 Plaintiff,

v.

14 ROYCE LEE MAKISHIMA, et al.,
15 Defendant(s).

REQUEST/MOTION
FOR LEAVE TO APPEAL

16 Plaintiff Grace Miles ("Miles") files this concurrently with her "notice of
17 appeal", not certain if she needs to, considering her other related filings, especially her
18 "motion for leave to file a motion for reconsideration", but does so to protect
19 herself/her case. This request/motion would be to appeal this Court's "order (1)
20 granting defendants' motion to remand and (2) vacating hearings" ("the Order"), Miles
21 apologizes If she did not need to do this, she does not know If this Is a final or
22 Interlocutory order.

23
24 July 28, 2008

25
26 Grace Miles
27 Pro Se



E-filing

Aug 11, 2008

R E C E I V E D
Harold S. Marenus, Clerk
U.S. BKCY APP PANEL
OF THE NINTH CIRCUIT

AUG 13 2008

Mr. Freddie Brown
Deputy Clerk, BAP

FILED
DOCKETED 8/14/08 FB
DATE INITIAL

Dear Mr. Brown:

C 08 4091
JSW

I received your opening letter.

Thank you. As requested, here is
the signed + entered order being
appealed, since I may not have
attached it to my notice of appeal.

Sincerely,

Grace Miles

Grace Miles
21 willow Rd. -22
Menlo Park, CA 94025

July 17, 2008
GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



3 AUG 13 2008

4 FILED _____
5 DOCKETED _____
DATE _____ INITIALS _____

Signed and Filed: July 16, 2008

**THOMAS E. CARLSON
U.S. Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re) Case No. 07-27982 A7
ROYCE LEE MAKISHIMA and)
TERRA ANN MAKISHIMA,)
Debtors.) Chapter 7
) (Pending in the United
) States Bankruptcy Court for
) the Eastern District of
) California)
GRACE MILES,)
Plaintiff,)
vs.) Adv. Proc. No. 08-3037 TC
ROYCE LEE MAKISHIMA; A.G. EDWARDS &)
SONS, INC.; TERRA ANN MAKISHIMA,)
Defendants.)

**ORDER (1) GRANTING DEFENDANTS' MOTION TO REMAND
AND (2) VACATING HEARINGS**

Upon due consideration, and for the reasons stated in the accompanying memorandum, the court hereby orders as follows:

(1) Defendants' motion to remand is granted.

(2) The court determines that oral argument would not be helpful and therefore vacates the hearing set for July 18, 2008 on the motion to remand.

1 (3) Because this court remands the entire action to state
2 court and will not exercise jurisdiction over the action hereafter,
3 (a) the status conference set for July 24, 2008 is vacated; and
4 (b) the hearing set for August 29, 2008 on Plaintiff's motion to
5 disqualify Morgan Lewis is vacated.

6 (4) The parties to this proceeding may not file a motion for
7 reconsideration without first obtaining leave of the above-signed.

8 | Bankr. Local Rule 1001-2(b); Local Civ. Rule 7-9.

END OF ORDER

10

11

12

14

15

16

17

18

19

20

1

2

27

29

FILED

AUG 11 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

1 GRACE MILES
2 21 Willow Rd.-22
3 Menlo Park, CA 94025
4 650.329.8785, fax same, call 1st
5 IN PRO PER

RECEIVED
Harold S. Manibus, Clerk
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

AUG 14 2008

FILED

DOCKETED 8/14/08 FB

DATE

INITIAL

E-filing

UNITED STATES BANKRUPTCY COURT

Northern District of California

C 08

4091

JSW

6
7 In re
8 ROYCE LEE MAKISHIMA and
9 TERRA ANN MAKISHIMA,
10 Debtors,

Adversary Pro. No. 08-03037

DESIGNATION OF RECORD
& STATEMENT OF ISSUES

11 GRACE MILES,
12 Plaintiff/Appellant,
13 v.

14 ROYCE LEE MAKISHIMA, et al.,
Defendants/Appellees(s).

15 Plaintiff/Appellant Grace Miles ("Miles") filed a Notice of Appeal on July 29,
16 2008 from Judge Carlson's July 17, 2008, Order (1) Granting Defendants' Motion to
17 Remand and (2) Vacating Hearings. The Contents of the Record may include all
18 filings in this case and some filings from associated cases, state or federal, the order
19 itself, and all documents that pertains to the issue that Miles would discover after
20 obtaining counsel on this issue. Miles reserves the right to file a corrected/amended
21 version of this filing to be more accurate/complete for all parties, since she has not yet
22 found counsel.. There is no transcript required on this Order, there was no hearing.

23
24 August 8, 2008
25
26

Grace Miles
In Pro Per

Grace Miles
Grace Miles

27

28

FILED

AUG 11 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

GRACE MILES
21 Willow Rd.-22
Menlo Park, CA 94025
650.329.8785

UNITED STATES BANKRUPTCY COURT
Northern District of California

GRACE MILES,
Plaintiff/*Appellant*
v.
ROYCE MAKISHIMA, et al.,
Defendant(s)/*Appellees*,

Case No. 08-03037

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am over the age of 18 years and not a party to the above-entitled action..

On August 8, 2008, I served a copy of: DESIGNATION OF RECORD & STATEMENT OF ISSUES

by placing a true copy(ies) of said document(s) in a postage paid envelope addressed to: Lindsey Schroeder, Morgan Lewis, 3000 El Camino Real, Ste.700, Palo Alto, CA 94306

and depositing said envelope in the U.S. Mail.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 8, 2008, at San Francisco, California.

Douglas F Carlson
print name

Agee
signature

1 RICHARD W. ESTERKIN (70769)
 2 resterkin@morganlewis.com
 3 ASA S. HAMI (210728)
 4 ahami@morganlewis.com
 5 MORGAN, LEWIS & BOCKIUS LLP
 6 300 South Grand Avenue
 7 Twenty-Second Floor
 8 Los Angeles, CA 90071-3132
 9 Tel: 213-612-2500
 10 Fax: 213-612-2501
 11
 12 DARYL S. LANDY (136288)
 13 dlandy@morganlewis.com
 14 LINDSEY K. SCHROEDER (245425)
 15 lschroeder@morganlewis.com
 16 MORGAN, LEWIS & BOCKIUS LLP
 17 2 Palo Alto Square
 18 3000 El Camino Real, Suite 700
 19 Palo Alto, CA 94306-2212
 20 Tel: 650-843-4000
 21 Fax: 650-843-4001
 22
 23 Attorneys for Defendants-Appellees
 24 Royce Lee Makishima and A.G. Edwards & Sons
 25 Inc.

RECEIVED
 Harold S. Maron, Clerk
 U. S. BKCY. APP. PANEL
 OF THE NINTH CIRCUIT

AUG 18 2008

FILED
 DOCKETED 8/18/08 FB
 INDEXED
 MAILED

E-filing

08-1195

4091

JSW

14 UNITED STATES BANKRUPTCY COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 In re
 17 ROYCE LEE MAKISHIMA and TERRA
 18 ANN MAKISHIMA,
 19 Debtors.

Bk. Case No. [None Assigned]¹

Chapter 7

Adv. Proc. No. 08-03037

**ROYCE LEE MAKISHIMA AND A.G.
 EDWARDS & SONS, INC.'S COUNTER-
 DESIGNATION OF ADDITIONAL ITEMS
 TO BE INCLUDED IN THE RECORD ON
 APPEAL**

[Appeal from "Order (1) Granting Defendants'
 Motion to Remand and (2) Vacating Hearings"
 (Dkt. No. 50)]

[No Hearing Required]

20
 21 GRACE MILES,
 22 Plaintiff,
 23 v.
 24 ROYCE LEE MAKISHIMA, et al.,
 25 Defendant(s).

26
 27 ¹ The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of
 28 California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no
 bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern
 District of California.

1 Appellees Royce Lee Makishima and A. G. Edwards & Sons, Inc. (together, the
 2 "Appellees"), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, hereby
 3 submit this Counter-Designation of Items to be Included in the Record on Appeal from the
 4 Bankruptcy Court's "Order (1) Granting Defendants' Motion to Remand and (2) Vacating
 5 Hearings," entered July 17, 2008.

| 6 | Date | Docket # | Document |
|----|------------|----------|---|
| 7 | 04/28/2008 | 1 | Notice of Removal of Action |
| 8 | 04/28/2008 | 2 | Notice of Status Conference In A Case Removed To Bankruptcy Court to be held on 7/24/2008 at 10:00 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Grace Miles. (mw,) (Entered: 04/28/2008) |
| 9 | 04/28/2008 | 3 | Adversary Cover Sheet (RE: related document(s) 1 Complaint filed by Plaintiff Grace Miles). (mw,) (Entered: 04/28/2008) |
| 10 | 04/29/2008 | 4 | Order Regarding Initial Disclosures and Discovery Conference. (mw,) (Entered: 04/29/2008) |
| 11 | 04/30/2008 | 6 | Certificate of Service (RE: related document(s) 1 Complaint). Filed by Plaintiff Grace Miles (ac,) (Entered: 05/02/2008) |
| 12 | 05/01/2008 | 5 | BNC Certificate of Mailing - Electronic Order (RE: related document(s) 4 Discovery Order). Service Date 05/01/2008. (Admin.) (Entered: 05/01/2008) |
| 13 | 05/08/2008 | 7 | Statement of Pursuant to Rule 9027(e)(3) of the <i>Federal Rules of Bankruptcy Procedure</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/08/2008) |
| 14 | 05/08/2008 | 8 | Certificate of Service. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/08/2008) |
| 15 | 05/12/2008 | 9 | Certificate of Service (RE: related document(s) 2 Notice of Status Conference). Filed by Plaintiff Grace Miles (ac,) (Entered: 05/15/2008) |
| 16 | 05/12/2008 | 10 | Certificate of Service (RE: related document(s) 4 Discovery Order, 1 Complaint, 2 Notice of Status Conference). Filed by Plaintiff |

Grace Miles (ac,) (Entered: 05/15/2008)

| | | |
|------------|----|--|
| 05/28/2008 | 11 | Motion to Abstain and Remand <i>Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima. (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/28/2008 | 12 | Notice Regarding <i>Notice of Hearing on Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima. (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/28/2008 | 13 | Memorandum of Points and Authorities in Support of <i>Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/28/2008 | 14 | Declaration of Lindsey K. Schroeder in Support of <i>Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/28/2008 | 15 | Declaration of Lindsey K. Schroeder in Support of <i>Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Attachments: # 1 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc and Royce Makishima's Motion to Remand Part 2# 2 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 3# 3 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 4# 4 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 5# 5 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 6# 6 Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 7# 7Declaration Declaration of Lindsey K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand Part 8) (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/28/2008 | 16 | Certificate of Service . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/28/2008) |
| 05/29/2008 | 17 | Corrected Certificate of Service <i>Errata to Certificate of Service Regarding Defendants A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to Remand</i> Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima. (Schroeder, Lindsey) (Entered: 05/29/2008) |

1 Makishima's Motion to Remand. Filed by Defendants A.G.
 2 Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey)
 3 (Entered: 05/29/2008)

4 05/29/2008 18 Certificate of Service . Filed by Defendants A.G. Edwards & Sons,
 5 Inc., Royce Makishima (Schroeder, Lindsey) (Entered:
 6 05/29/2008)

7 05/29/2008 19 Request To Disqualify Morgan Lewis From Representation Of
 8 Client. Filed by Plaintiff Grace Miles (cog,) (Entered: 06/02/2008)

9 05/29/2008 20 Request For Stay Of Proceedings. Filed by Plaintiff Grace Miles
 10 (cog,) (Entered: 06/02/2008)

11 05/29/2008 21 Certificate of Service (RE: related document(s) 20 Document, 19
 12 Document). Filed by Plaintiff Grace Miles (cog,) (Entered:
 13 06/02/2008)

14 07/03/2008 22 Ex-Parte Motion To Stay Pending Appeals, Etc. Filed by Plaintiff
 15 Grace Miles (RE: related document(s)1 Complaint filed by
 16 Plaintiff Grace Miles) . (cog,) (Entered: 07/08/2008)

17 07/03/2008 23 Notice Of Related Adversary Proceeding (RE: related document(s)
 18 1 Complaint filed by Plaintiff Grace Miles). Filed by Plaintiff
 19 Grace Miles. (cog,) (Entered: 07/08/2008)

20 07/08/2008 28 Motion To Withdraw Reference. Filed by Plaintiff Grace Miles
 21 (cog,) (Entered: 07/11/2008)

22 07/08/2008 29 Plaintiff's Opposition To Defendants' Motion To Remand (RE:
 23 related document(s) 11 Motion to Abstain and Remand). Filed by
 24 Plaintiff Grace Miles (cog,) (Entered: 07/11/2008)

25 07/09/2008 24 Order (RE: related document(s) 22 Motion to Stay Pending Appeal
 26 filed by Plaintiff Grace Miles). (mw,) (Entered: 07/10/2008)

27 07/09/2008 25 Certificate of Service (RE: related document(s) 23 Notice). Filed
 28 by Plaintiff Grace Miles (mw,) (Entered: 07/10/2008)

29 07/10/2008 26 Emergency Motion For Stay Pending Appeals, Etc, Declaration In
 30 Support Of, & Proposed Order. Filed by Plaintiff Grace Miles
 31 (mw,) ERROR: Court will redocket. Modified on 7/10/2008 (mw,
 32). (Entered: 07/10/2008)

33 07/10/2008 27 Emergency Motion For Stay Pending Appeals, Etc, Declaration In
 34 Support Of, & Proposed Order. Filed by Plaintiff Grace Miles
 35 (mw,) (Entered: 07/10/2008)

1 07/11/2008 30 Brief/Memorandum in Opposition to *Opposition of Defendants*
 2 *A.G. Edwards & Sons, Inc. and Royce Makishima to Plaintiff's*
 3 *"Emergency Motion for Stay Pending Appeals, Etc."*. Filed by
 4 Defendants A.G. Edwards & Sons, Inc., Royce Makishima
 5 (Schroeder, Lindsey) (Entered: 07/11/2008)

6 07/11/2008 31 Declaration of Lindsey K. Schroeder in Support of *Opposition of*
 7 *Defendants A.G. Edwards & Sons, Inc. and Royce Makishima to*
 8 *Plaintiff's "Emergency Motion for Stay Pending Appeals, Etc."*.
 9 Filed by Defendants A.G. Edwards & Sons, Inc., Royce
 10 Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)

11 07/11/2008 32 Declaration of Asa S. Hami in Support of *Opposition of*
 12 *Defendants A.G. Edwards & Sons, Inc. and Royce Makishima to*
 13 *Plaintiff's "Emergency Motion for Stay Pending Appeals, Etc."*.
 14 Filed by Defendants A.G. Edwards & Sons, Inc., Royce
 15 Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)

16 07/11/2008 33 Certificate of Service. Filed by Defendants A.G. Edwards & Sons,
 17 Inc., Royce Makishima (Schroeder, Lindsey) (Entered:
 18 07/11/2008)

19 07/11/2008 34 Reply to *Reply of Defendants A.G. Edwards & Sons, Inc. and*
 20 *Royce Makishima In Support of Motion to Remand*. Filed by
 21 Defendants A.G. Edwards & Sons, Inc., Royce Makishima
 22 (Schroeder, Lindsey) (Entered: 07/11/2008)

23 07/11/2008 35 Certificate of Service. Filed by Defendants A.G. Edwards & Sons,
 24 Inc., Royce Makishima (Schroeder, Lindsey) (Entered:
 25 07/11/2008)

26 07/11/2008 36 Motion for continuance, request for shortening of time and
 27 declaration and proposed order. Filed by Plaintiff Grace Miles.
 28 (Copy only) (ac,) (Entered: 07/14/2008)

20 07/11/2008 37 Certificate of Service (RE: related document(s) 36 Motion
 21 Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac,)
 22 (Entered: 07/14/2008)

23 07/11/2008 38 Corrected emergency Motion for stay pending appeals, etc,
 24 affidavit, & proposed order Filed by Plaintiff Grace Miles . (ac,)
 25 (Entered: 07/14/2008)

26 07/11/2008 39 Request to disqualify Morgan Lewis from representation of client
 27 Filed by Plaintiff Grace Miles. (ac,) (Entered: 07/14/2008)

28 07/11/2008 40 Notice of Hearing (RE: related document(s) 39 Motion
 29 Miscellaneous Relief filed by Plaintiff Grace Miles). Hearing
 30 scheduled for 8/29/2008 at 09:30 AM at San Francisco Courtroom

| | | | |
|----|------------|----|---|
| 1 | | | 23 - Carlson. Filed by Plaintiff Grace Miles. (ac,) (Entered: 2 07/14/2008) |
| 3 | 07/11/2008 | 41 | Certificate of Service (RE: related document(s) 38 Motion 4 Miscellaneous Relief, 39 Motion Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac,) (Entered: 07/14/2008) |
| 5 | 07/11/2008 | 42 | Certificate of Service (RE: related document(s) 28 Motion for 6 Withdrawal of Reference). Filed by Plaintiff Grace Miles (ac,) (Entered: 07/14/2008) |
| 7 | 07/11/2008 | 43 | Certificate of Service (RE: related document(s) 27 Motion 8 Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac,) (Entered: 07/14/2008) |
| 9 | 07/15/2008 | 44 | Brief/Memorandum in Opposition to <i>Opposition of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima to Plaintiff's "Motion for Continuance, Request for Order Shortening Time"</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/15/2008) |
| 10 | 07/15/2008 | 45 | Declaration of Lindsey K. Schroeder in Support of <i>Opposition of Defendants A.G. Edwards & Sons, Inc. and Royce Makishima to Plaintiff's "Motion for Continuance, Request for Order Shortening Time"</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/15/2008) |
| 11 | 07/15/2008 | 46 | Certificate of Service. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 12 07/15/2008) |
| 13 | 07/16/2008 | 47 | Emergency request/motion/complaint for restraining and/or 14 injunction order, declaration, proposed order Filed by Plaintiff 15 Grace Miles . (ac,) (Entered: 07/17/2008) |
| 16 | 07/16/2008 | 48 | Certificate of Service (RE: related document(s) 47 Motion 17 Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac,) (Entered: 07/17/2008) |
| 18 | 07/16/2008 | 49 | Memorandum RE: (1) Defendants' motion to remand; (2) Plaintiff's 19 motions to stay, for continuance, and to disqualify (RE: related 20 document(s) 11 Motion to Abstain and Remand filed by Defendant 21 Royce Makishima, Defendant A.G. Edwards & Sons, Inc.). (ac,) (Entered: 07/17/2008) |
| 22 | 07/16/2008 | 50 | Order (1) Granting Defendants' Motion to Remand and (2) 23 Vacating hearings. (Related Doc #11) (ac,) (Entered: 07/17/2008) |
| 24 | 07/17/2008 | 54 | Notice of intent to file a request/motion for leave to file a motion 25 26 27 28 |

1 for reconsideration. (RE: related document(s) 50 Order on Motion
 2 to Abstain and Remand). Filed by Plaintiff Grace Miles. (ac,)
 (Entered: 07/21/2008)

3 07/18/2008 51 Transmittal Form RE: Order Remanding case back to San Mateo
 4 Superior Court. (RE: related document(s) 50 Order on Motion to
 5 Abstain and Remand). (ac,) (Entered: 07/18/2008)

6 07/19/2008 52 BNC Certificate of Mailing - Electronic Order (RE: related
 7 document(s) 49 Memorandum Decision,). Service Date
 07/19/2008. (Admin.) (Entered: 07/19/2008)

8 07/19/2008 53 BNC Certificate of Mailing - Electronic Order (RE: related
 9 document(s) 50 Order on Motion to Abstain and Remand). Service
 Date 07/19/2008. (Admin.) (Entered: 07/19/2008)

10 07/21/2008 55 Certificate of Service (RE: related document(s) 54 Notice). Filed
 11 by Plaintiff Grace Miles (mw,) (Entered: 07/23/2008)

12 07/23/2008 56 Objection To Order And Request To Vacate Reverse. (RE: related
 13 document(s) 50 Order on Motion to Abstain and Remand). Filed by
 14 Plaintiff Grace Miles (mw,) Additional attachment(s) added on
 15 7/24/2008 (mw,). (Entered: 07/24/2008)

16 07/23/2008 57 Certificate of Service (RE: related document(s) 56 Objection).
 17 Filed by Plaintiff Grace Miles (mw,) (Entered: 07/24/2008)

18 07/29/2008 58 Notice of Appeal to BAP, Fee Amount \$ 255. (RE: related
 19 document(s) 50 Order on Motion to Abstain and Remand).
 20 Appellant Designation due by 8/8/2008. Transmission to BAP due
 21 by 8/1/2008. Filed by Plaintiff Grace Miles (ac,) NO FEE
 22 PROVIDED. (Entered: 07/30/2008)

23 07/29/2008 59 Request/Motion for Leave to Appeal Filed by Plaintiff Grace
 24 Miles. (ac,) (Entered: 07/30/2008)

25 07/29/2008 60 Motion for leave to file a motion for reconsideration and proposed
 26 order Filed by Plaintiff Grace Miles. (ac,) (Entered: 07/30/2008)

27 07/30/2008 61 Notice of Referral of Appeal to Bankruptcy Appellant Panel (RE:
 28 related document(s) 58 Notice of Appeal filed by Plaintiff Grace
 Miles). (ac,) (Entered: 07/30/2008)

28 Courts Certificate of Mailing. Number of notices mailed: 3 (RE:
 related document(s) 58 Notice of Appeal filed by Plaintiff Grace
 Miles). (ac,) (Entered: 07/30/2008)

28 Transmission of Notice of Appeal to BAP (RE: related
 document(s) 58 Notice of Appeal filed by Plaintiff Grace Miles).

1 (ac,) (Entered: 07/30/2008)

2 07/31/2008 64 Certificate of Service (RE: related document(s)60 Motion
3 Miscellaneous Relief, 59 Motion for Leave to Appeal). Filed by
4 Plaintiff Grace Miles (ac,) (Entered: 08/04/2008)

5 08/04/2008 65 Order Denying Debtor's Motion To Vacate Order And Denying
6 Leave To File Motion For Reconsideration (Related Doc #60)
(cog,) (Entered: 08/06/2008)

7 08/04/2008 66 Emergency/Ex Parte Request Motion For Stay Pending
8 Reconsideration And/Or Appeal Filed by Plaintiff Grace Miles
(cog,) (Entered: 08/06/2008)

9 08/06/2008 67 Certificate of Service (RE: related document(s) 66 Motion
10 Miscellaneous Relief). Filed by Plaintiff Grace Miles (cog,)
(Entered: 08/07/2008)

11 08/08/2008 68 BNC Certificate of Mailing - Electronic Order (RE: related
12 document(s) 65 Order on Motion for Miscellaneous Relief).
Service Date 08/08/2008. (Admin.) (Entered: 08/08/2008)

13 08/08/2008 69 Return from BAP case # NC-08-1195 (RE: related document(s)58
14 Notice of Appeal). (ac,) (Entered: 08/12/2008)

15 08/11/2008 71 Appellant Designation of Contents For Inclusion in Record On
16 Appeal, Statement of Issues on Appeal, (RE: related document(s)
17 58 Notice of Appeal filed by Plaintiff Grace Miles). Appellee
designation due by 8/21/2008. Filed by Plaintiff Grace Miles (ac,)
(Entered: 08/12/2008)

18 08/11/2008 72 Certificate of Service (RE: related document(s)71 Appellant
19 Designation Statement of Issues on Appeal). Filed by Plaintiff
20 Grace Miles (ac,) (Entered: 08/12/2008)

21 08/12/2008 70 Order Denying Plaintiff's Emergency/Ex-Parte Request Motion For
22 Stay Pending Reconsideration And/or Appeal. (Related Doc #66)
(mw,) (Entered: 08/12/2008)

23 / / /

24 / / /

25 / / /

26 / / /

27 / / /

28

1 Appellees reserve the right to modify, restate, and/or supplement the foregoing
2 counter-designations to the fullest extent permitted by the Bankruptcy Code and Rules.
3

4 Dated: August 13, 2008

MORGAN, LEWIS & BOCKIUS LLP

6 By Lindsey K. Schroeder
7 Lindsey K. Schroeder
8 Attorneys for Defendants-Appellees Royce
Lee Makishima and A.G. Edwards & Sons,
Inc.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28
MORGAN, LEWIS &
BOCKIUS LLP
ATTORNEYS AT LAW
PALO ALTO

DB2/20807335.2

1 RICHARD W. ESTERKIN (70769)
 2 resterkin@morganlewis.com
 3 ASA S. HAMI (210728)
 4 ahami@morganlewis.com
 5 MORGAN, LEWIS & BOCKIUS LLP
 6 300 South Grand Avenue
 7 Twenty-Second Floor
 8 Los Angeles, CA 90071-3132
 9 Tel: 213-612-2500
 10 Fax: 213-612-2501

RECEIVED
 United States Court of Appeals
 of the Ninth Circuit

AUG 18 2008

FILED 8/18/08

DOCKETED 8/20/08 FB

11 DARYL S. LANDY (136288)
 12 dlandy@morganlewis.com
 13 LINDSEY K. SCHROEDER (245425)
 14 lschroeder@morganlewis.com
 15 MORGAN, LEWIS & BOCKIUS LLP
 16 2 Palo Alto Square
 17 3000 El Camino Real, Suite 700
 18 Palo Alto, CA 94306-2212
 19 Tel: 650-843-4000
 20 Fax: 650-843-4001

21 Attorneys for Defendants-Appellees
 22 Royce Lee Makishima and A.G. Edwards & Sons,
 23 Inc.

E-filing

24 UNITED STATES BANKRUPTCY COURT
 25 NORTHERN DISTRICT OF CALIFORNIA

26 In re

27 ROYCE LEE MAKISHIMA and TERRA
 28 ANN MAKISHIMA,

Debtors.

29 GRACE MILES,

30 Plaintiff,

31 v.

32 ROYCE LEE MAKISHIMA, et al.,

33 Defendant(s).

34 Bk. Case No. [None Assigned]¹

35 Chapter 7

36 Adv. Proc. No. 08-03037

37 ROYCE LEE MAKISHIMA AND A.G.
 38 EDWARDS & SONS, INC.'S STATEMENT
 39 OF ELECTION TO HAVE APPEAL
 40 HEARD BY THE DISTRICT COURT

41 [Appeal from "Order (1) Granting Defendants'
 42 Motion to Remand and (2) Vacating Hearings"
 43 (Dkt. No. 50)]

44 [No Hearing Required]

4091

JSW

26 ¹ The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of
 27 California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no
 28 bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern
 District of California.

1 Pursuant to 28 U.S.C. § 158(c)(1)(B), appellees Royce Lee Makishima and A.G. Edwards
2 & Sons, Inc. hereby elect that the appeal of this Court's "Order (1) Granting Defendants' Motion
3 to Remand and (2) Vacating Hearings" (Dkt. No. 50), commenced by appellant Grace Miles, be
4 heard by the United States District Court.

5

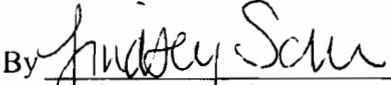
6

Dated: August 13, 2008

MORGAN, LEWIS & BOCKIUS LLP

7

8

By 

9

Lindsey Schreder

10

Attorneys for Defendants-Appellees
Royce Lee Makishima and A.G. Edwards
& Sons, Inc.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

MORGAN, LEWIS &
BOCKIUS LLP
ATTORNEYS AT LAW
FIRM OF RECORD

DB2/20801476 1

1

ROYCE LEE MAKISHIMA AND A.G. EDWARDS
& SONS, INC.'S STATEMENT OF ELECTION
(ADV. NO. 08-3037)

1 RICHARD W. ESTERKIN (70769)
resterkin@morganlewis.com
2 ASA S. HAMI (210728)
ahami@morganlewis.com
3 MORGAN, LEWIS & BOCKIUS LLP
300 South Grand Avenue
4 Twenty-Second Floor
Los Angeles, CA 90071-3132
5 Tel: 213-612-2500
Fax: 213-612-2501

6 DARYL S. LANDY (136288)
7 dlandy@morganlewis.com
8 LINDSEY K. SCHROEDER (245425)
9 lschroeder@morganlewis.com
10 MORGAN, LEWIS & BOCKIUS LLP
11 2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306-2212
Tel: 650-843-4000
Fax: 650-843-4001

12 Attorneys for Defendants
13 Royce Lee Makishima and A.G. Edwards & Sons,
Inc.

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

16 In re
17 ROYCE LEE MAKISHIMA and TERRA
18 ANN MAKISHIMA,
Debtors

Bk. Case No. [None Assigned]¹

Chapter 7

Adv. Proc. No. 08-03037

CERTIFICATE OF SERVICE

20 GRACE MILES,
21 Plaintiff,
22 v.
23 ROYCE LEE MAKISHIMA, et al.,
24 Defendant(s).

27 1 The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of
28 2 California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no
 3 bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern
 4 District of California.

CERTIFICATE OF SERVICE

I am a resident of the State of California and over the age of eighteen years and not a party to the within-entitled action; my business address is 2 Palo Alto Square, 3000 El Camino Real, Suite 700, Palo Alto, California, 94306. On August 13, 2008, I served the within document(s):

**ROYCE LEE MAKISHIMA AND A.G. EDWARDS & SONS, INC.'S
COUNTER-DENOMINATION OF ADDITIONAL ITEMS TO BE INCLUDED
IN THE RECORD ON APPEAL:**

**ROYCE LEE MAKISHIMA AND A.G. EDWARDS & SONS, INC.'S
STATEMENT OF ELECTION TO HAVE APPEAL HEARD BY THE
DISTRICT COURT; and**

CERTIFICATE OF SERVICE.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palo Alto, California addressed as set forth below.

Grace Miles
21 Willow Road, Apt. 22
Menlo Park, California 94025

In Pro Per

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on August 13, 2008, at Palo Alto, California.

Gina M. Johnson